

The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. 35 ILCS 105/3 (1998 State Bar Edition). See 86 Ill. Adm. Code 150.101. (This is a GIL.)

February 21, 2001

Dear Xxxxx:

This letter is in response to your letter dated December 11, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

In 1998, you assisted the STATE in answering a questionnaire on (1) credits for taxes paid to other States, and (2) the tax treatment of motor vehicle/trailer purchases. We are asking again for your assistance in updating our sales and use tax records.

We have enclosed a questionnaire, along with a self-addressed, postage paid envelope for your convenience. If you prefer to discuss this over the phone or by e-mail instead of by mail, please call.

For your reference, let me explain STATE's law with respect to two issues stated above that are the subject of the questionnaire: (1) STATE allows a credit against the use tax due in this State for the state and local taxes due and paid in another State; (2) For STATE sales tax purposes, sales to nonresidents of motor vehicles and trailers that are to be registered and licensed in the purchaser's state of residence are taxed at the lesser of the (a) sales tax that would be imposed on the sale in the purchaser's state of residence or (b) tax that would be imposed under STATE law, generally no more than \$300. No sales tax is due in STATE, however, if a nonresident purchaser cannot receive a credit in his resident state for sales tax paid to STATE.

We appreciate your assistance in this matter. If possible, we ask that you respond no later than January 31, 2001.

Your questionnaire reads as follows:

SALES OF MOTOR VEHICLES

Does your state impose a tax on the sale of motor vehicles?

If so, please indicate the type of tax imposed:

Sales tax (i.e. a tax imposed on the sale of tangible personal property):

Licensing or registration tax (i.e. a tax imposed on the issuance of a motor vehicle certificate of title, or a tax on the registration of a motor vehicle):

Other tax, please explain:

What is the controlling statutory citation(s)?

What is your state's tax rate, excluding local rates?

Is a maximum tax imposed on motor vehicle purchases?

If so, what is the maximum tax amount?

Please indicate the measure of the tax imposed:

Sales price minus trade-in:

Sales price only:

Other measure, please explain:

Is a credit allowed for sales tax paid for vehicles purchased outside of your state and brought into your state?

Is a credit allowed for use tax paid for vehicles purchased outside of your state and brought into your state?

What is the applicable statutory reference(s)?

SALES OF TRAILERS, SEMI-TRAILERS, AND POLE TRAILERS

Does your state impose a tax on the sale of trailers?

If so, please indicate the type of tax imposed:

Sales tax (i.e. a tax imposed on the sale of tangible personal property):

Licensing or registration tax (i.e. a tax imposed on the issuance of a trailer certificate of title, or a tax on the registration of a trailer):

Other tax, please explain:

What is the controlling statutory citation(s)?

What is your state's tax rate, excluding local rates?

Is a maximum tax imposed on trailer purchases?

If so, what is the maximum tax amount:

Please indicate the measure of the tax imposed:

Sales price minus trade-in:
Sales price only:
Other measure, please explain:

Is a credit allowed for sales tax paid for trailers purchased outside of your state and brought into your state?

Is a credit allowed for use tax paid for trailers purchased outside of your state and brought into your state?

What is the applicable statutory reference(s)?

Are there any exemptions for trailers used in interstate or foreign commerce?

If so, please explain and provide the applicable statutory reference.

RECIPROCITY – CREDIT FOR TAXES PAID TO OTHER STATES ON PURCHASES OF TANGIBLE PERSONAL PROPERTY

Is a credit allowed for sales tax paid on personal property purchased outside of your state and brought into your state?

Please explain and provide applicable statutory references.

If so, are there any types of tangible property for which a credit is not allowed?

Please explain and provide applicable statutory references?

Is a credit allowed for use tax paid on personal property purchased outside of your state and brought into your state?

Please explain and provide applicable statutory references.

If so, are there any types of tangible property for which a credit is not allowed?

Please explain and provide applicable statutory references.

GENERAL INFORMATION

(Additional information that you would like to provide.)

Is there any legislation pending that could change any of your responses? If so, please explain.

Please provide your agency's website address:

Please provide the name and phone number of the person completing this questionnaire and the name, address, and phone number of the person to contact if further information is necessary:

Name and phone number of person completing questionnaire:

Contact person's name:

Address:

Phone number:

E-mail address(es):

Would you like a copy of this information when compiled?

Yes _____ No _____

The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. 35 ILCS 120/2 (1998 State Bar Edition). The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. 35 ILCS 105/3 (1998 State Bar Edition). See 86 Ill. Adm. Code 150.101. Motor vehicles, trailers, semi-trailers and pole trailers are considered tangible personal property subject to tax. The state tax rate is 6.25%.

Sales of new vehicles are subject to sales tax based on the gross receipts from the sale. Under 86 Ill. Adm. Code 130.425 (copy enclosed), the value of, or the credit given for the trade-in would not be counted as gross receipts. Any tax due would be based upon the gross receipts received in payment for the vehicle. Gross receipts includes all of the receipts that the dealer receives from whatever source. This includes both receipts that are provided by the customer and also any receipts provided by the manufacturer as part of a rebate or allowance program.

Form RUT-25, Use Tax Return, is used to remit Use Tax to the Department if a new or used motor vehicle, watercraft, or aircraft is purchased from an out-of-State retailer. In addition, the Use Tax does not apply to the use, in this State, of tangible personal property which is acquired outside this State by a nonresident individual who then brings the property to this State for use here, and who shall have used the property outside this State for at least 3 months before bringing the property to this State. See the enclosed copy of 86 Ill. Adm. Code 150.315.

Illinois will give a credit for taxes properly due and paid in another state. See 86 Ill. Adm. Code 150.310. In addition, depreciation is allowed for out-of-State use. See 86 Ill. Adm. Code 150.110.

The Illinois Retailers' Occupation Tax and Use Tax do not apply to sales of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce. The Department's rules governing the rolling stock exemption are found at 86 Ill. Adm. Code 130.340, copy enclosed.

The exemption applies to sales of tangible personal property to lessors under leases of one year or longer executed or in effect at the time of purchase with interstate carriers for hire for use as rolling stock moving in interstate commerce. A lessor will not incur Use Tax on the purchase of the vehicle that is leased to the interstate carrier for hire for use as rolling stock moving in interstate commerce under a lease term of one year or longer. See 35 ILCS 105/3-55(b) and 120/2-5(12). If a lessor leases a vehicle to an interstate carrier for hire under a lease term of less than one year, the rolling stock exemption is also available because the tax does not apply to the use by (or sale to) lessors, owners, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce. See 35 ILCS 105/3-55(c) and 120/2-5(13).

Effective August 14, 1999, motor vehicles, trailers, and property attached to those motor vehicles and trailers must carry persons or property for hire in interstate commerce on 15 or more occasions within a 12-month period to qualify for the exemption. See 35 ILCS 120/2-51. For other types of property used in interstate commerce, the interstate carriers must be able to show, from their books and records, that the property has moved in interstate commerce for hire on a regular and frequent basis in order to qualify for the exemption.

Purchasers also must be recognized by the appropriate federal or state regulatory agency as interstate carriers for hire and have received a Certificate of Authority to engage in interstate commerce. Please note that it is not the type of item that determines whether or not it qualifies as rolling stock, but rather how a qualifying interstate carrier uses the item. In addition to receiving the proper Certificate of Authority, purchasers should be aware that only those items used specifically as rolling stock would qualify. See the enclosed copy of 86 Ill. Adm. Code 130.340.

When making a purchase of qualifying property, the purchasers must provide the sellers with a certification that they are interstate carriers for hire and that they are purchasing the property for use as rolling stock moving in interstate commerce. If the purchasers are lessors, the purchasers must give the sellers a certification to that effect identifying the lessee interstate carriers for hire. Form RUT-7, Rolling Stock Affidavit, which is signed by the purchasers, is used to provide the required certification in order to execute the statutory exemption.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.